IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL ACTION NO. 3:08-CV-71-RJC-DCK

DMG AMERICA, INC.,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
RT PRECISION MACHINERY, LP,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT *sua sponte* for scheduling purposes and to clarify the case's procedural posture. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b) and immediate review is appropriate.

Having carefully considered the record, the pending motion, the applicable authority, and the comments of counsel for the parties during a telephone conference on November 5, 2008, the undersigned will <u>deny</u> the motion to dismiss without prejudice and issue scheduling and docketing instructions.

IT IS, THEREFORE, ORDERED that "Defendant's Motion To Dismiss" (Document No. 3) is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that "Plaintiff's Alternate Motion To Amend Complaint" (Document No. 6-2) be both docketed by the Clerk as filed and ordered **GRANTED** by the Court; and the Clerk of Court is instructed to immediately and separately file Plaintiff's "Amended Complaint" (Document No. 6-4).

IT IS FURTHER ORDERED that Defendant may file an Answer or other response to Plaintiff's "Amended Complaint" (including any renewed motion to dismiss) on or before

November 19, 2008.

Signed: November 5, 2008

David C. Keesler

United States Magistrate Judge